IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 958 of 2007()

IA 1986/05 in OS.592/2004 of MUNSIFF COURT, North PARAVUR
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REVN. PETITIONER: PETITIONER/PLAINTIFF:

ST.JOSEPH SADHUJANA SANGHOM NO.6,
ALANGAD, REP. BY SECRETARY, MATHAN,AGED 57 YEARS,
S/O. PAULO, MENACHERY, THIRUVALLOOR KARA,
ALANGAD VILLAGE,PARAVUR TALUK.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN
SRI.AJU MATHEW

RESPONDENTS: RESPONDENTS/DEFENDANTS:
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1. KRISHNAKUMAR, AGED ABOUT 43,
S/O. SIVASANKARA PILLAI, SREESAILAM HOUSE,
THIRUVALLOOR KARA, ALANGAD VILLAGE.

2. P.T. SURESH, AGED 42,
S/O. THANKAPPAN, KOCHUMADATHIL HOUSE,
THIRUVALLOOR KARA, ALANGAD VILLAGE.

3. V.C. SREENIVASAN, AGED 40,
S/O. CHANDRAN, VATTAMTATTIL HOUSE,
PERUMPADANNA MURI, PARAVUR VILLAGE.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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C.R.P.No.958 of 2007

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Dated this the 7th day of November, 2007.

ORDER

This revision petition is filed against the order of the Munsiff, North Paravur in I.A.No.1986 of 2005 in O.S.No.592 of 2004. Learned counsel for the revision petitioner submits that in the suit, the defendants were set ex parte and an affidavit was filed and Exts.A1 to A3 were marked. The matter was taken up for judgment and the court dismissed the suit on the ground of limitation. To review the said judgment, an application was filed which also had the very same fate. Now it is against the above decision that this revision petition is filed.

2. Learned counsel would contend that the date of the promissory note is dated 25.8.2001 and three years expired when the court was closed for Onam holidays and immediately on reopening date, the case was filed and therefore there was no limitation. This is a matter which requires factual consideration. Section 4 of the Limitation Act would clearly show that where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may

be instituted, preferred or made on the date when the court re-opens. So, it is very clear that if the period of three years had expired during the closure of the court, Limitation Act itself gives power for the party to file suit on the reopening date. Then such suit cannot be said to be barred by limitation. Without adverting to those facts suppose an order is passed by the court certainly it will be an error apparent on the face of the records which calls for review of the judgment.

3. Unfortunately, learned Munsiff has not considered these aspects and therefore, I set aside the order passed in the review application and remit back the same to the court below to consider whether the three years time of the promissory note expired during the pendency of the closure of the court and whether the suit is filed on the reopening date. If these two ingredients are satisfied then the court is bound to admit the plaint and review the order so as to render justice to the party. Parties are directed to appear before the court below on 4.12.2007.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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